

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

DECISION AND ORDER
23-CR-110-A

BRIAN AVERY SMITH,

Defendant.

Defendant Brian Avery Smith is charged in a 4-count Indictment (Dkt. No. 30).

The case was referred to Magistrate Judge Michael J. Roemer pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings.

On August 29, 2024, the Magistrate Judge filed a Report, Recommendation and Order (“RR&O”) (Dkt. No. 58) that recommends Defendant’s motion to suppress and motion to dismiss (Dkt. No. 45) be denied. At Defendant’s request (Dkt. No. 61), the parties were given to October 21, 2024, to file any objections to Magistrate Judge Roemer’s RR&O. No objections to the RR&O were filed by the parties. Because there are no objections to the RR&O, the Court reviews the RR&O on clear error review.

The Court adopts the reasoning of the Magistrate Judge and deems no further discussion necessary.

Upon clear error review pursuant to 28 U.S.C. §636(b)(1), and for the reasons set forth in the RR&O, it is hereby

ORDERED that the RR&O (Dkt. No. 58) is adopted in its entirety; and it is further

ORDERED that Defendant's motion to suppress and motion to dismiss (Dkt. No. 45) is **DENIED**. The parties shall appear for a status conference to set a date for trial or plea on October 28, 2024, at 9:30 am.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: October 22, 2024
Buffalo, New York